

FILED

APR - 8 2009

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**In the
Indiana Supreme Court**

John WITT and Amanda Witt)	Supreme Court No. 38S00-0904-SJ-130
Plaintiffs)	
)	
vs.)	
)	
CHEVRON, USA, INC., Jay Petroleum, Inc.,)	
Creek Run, LLC., and Jack R. James)	
Defendants)	
)	
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JAY PETROLEUM, INC.,)	
Third-Party Plaintiff)	
)	
vs.)	Case No. 38D01-0712-MI-4
)	
Jack E. HOUCK and Chris M. Grieshop)	in the Jay Superior Court
Third-Party Defendants)	

ORDER REMANDING JURISDICTION

The Honorable Max C. Ludy, Jr., Judge of the Jay Superior Court, pursuant to Ind. Trial Rule 79(H)(3), certifies this matter here for the appointment of a special judge.

And this Court, being duly advised, now finds that jurisdiction of this matter should be remanded to the Jay Superior Court and Judge Linda Ralu Wolf. The Chronological Case Summary reveals that on February 2, 2009, Judge Ludy granted a change of judge and pursuant to Ind. Trial Rule 79(F) named a striking panel. As a result of the striking process, the Honorable John M. Feick was selected as special judge. However, pursuant to Ind. Trial Rule 79(G), Judge Feick declined to accept the case. Therefore, pursuant to Ind. Trial Rule 79(H), the Honorable Linda Ralu Wolf was selected as special judge on March 12, 2009. On March 25, 2009, Judge Wolf declined to accept the case. Judge Ludy then certified the matter here for appointment of a special judge.

A special judge selected under Ind. Trial Rule 79(H), “. . . must accept jurisdiction in the case unless the appointed special judge is disqualified pursuant to the *Code of Judicial Conduct*, ineligible for service under this rule, or excused from service by the Indiana Supreme Court. The order of appointment under the local rule shall constitute acceptance.”

There being no record that Judge Wolf is disqualified, ineligible or excused from service, her refusal to accept the case is ineffective and we find that jurisdiction in the above matter is vested in her by virtue of the application of Ind. Trial Rule 79(H).

IT IS, THEREFORE, ORDERED that jurisdiction of this matter is remanded to the Jay Superior Court and Judge Linda Ralu Wolf.

The Clerk of this Court is directed to forward notice of this Order to the Hon. Linda Ralu Wolf, Delaware Circuit Court #3, 100 West Washington Street, Muncie, IN 47305-2869; the Hon. Max C. Ludy, Jr., Jay Superior Court, 120 North Court Street, Portland, IN 47371-2116; and to the Clerk of the Jay Superior Court.

The Clerk of the Jay Superior Court is directed to forward notice of this Order to all parties of record in the case below.

DONE at Indianapolis, Indiana, this 8th day of April, 2009.

RT Shepard

Randall T. Shepard
Chief Justice of Indiana